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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,776

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Jakob Gerrit Nijboer

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10/24/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

NWAKAMMA, CHIBUIKE K

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 10/552,776	<b>Applicant(s)</b> NIJBOER ET AL.	
	<b>Examiner</b> CHIBUIKE K. NWAKAMMA	<b>Art Unit</b> 2627	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 06 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-8.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See continuation.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/HOA T NGUYEN/  
Supervisory Patent Examiner, Art Unit 2627

/C. K. N./  
Examiner, Art Unit 2627

On pages 7-8 of applicant's remark filed 06 Oct. 2008, applicant argued "claim 1 as provided recites in pertinent part a (emphasis added) "device for recording data and data structures on a write-once storage medium, the data structures comprising space bit map and defect management structures, the device comprising ...controlling means are adapted to record the data structures at a predefined temporary location in a reserved area on the write-once storage medium and to finalize the write-once storage medium by recording the data structures at a predefined fixed location as defined for a rewritable storage medium, wherein the predefined fixed location is a different location than the predefined temporary location." Accordingly, claim 1 pertains to a device for recording data structures at a predefined temporary location on a disk and to finalize the (same) disk by recording the data structures at a predefined fixed location. As is clear, whether or not Shishido may be applied to different disk to write data in different predefined locations as determined by different disk types is immaterial to the claims provided by the present patent application".

The Examiner respectfully disagree because claim 1 does not disclose or suggest "a predefined temporary location" and "predefined fixed location" to be on the same disk. Claim 1 recites "a predefined temporary location" to be on a write-once disk and "a predefined fixed location" to be on a rewritable disk, hence, different locations. Shishido as analyzed in the rejection of claim 1 (Final Action dated 06 August 2008) discloses predefined locations on a write-once disc and rewritable disc. Therefore, the locations are different. Furthermore, Shishido discloses in Fig. 5 a structure of an optical medium representing a write-once (CD-R) and a rewritable (CD-RW). Therefore, a position and/or location such as the program area, read-out area etc. as defined in the optical medium corresponds or is the same for both the CD-R and CD-RW. Data structures are recorded on packet basis at a predefined/predetermined fixed-length data block via fixed-length packet write method. So, a finalizing process of the write-once storage medium CD-R, is met), wherein the predefined fixed location is a different location than the temporary location (Figs. 5-6 and [0047]...writable optical disc such as CD-R and CD-RW; [0054]...user data region 18, a fixed length packet write method is used...one packet has length fixed to a predetermined data block. Note: it is clear the predetermined fixed location in the CD-R is different from CD-RW predefined fixed location). Hence, it is obvious to one of ordinary skill in the art to modify a write-once disk to comprise a predefined temporary location and/or predefined fixed location since the structure of the recording medium in Fig. 5 represents both the CD-R/RW.

On page 8 of applicant's remark, applicant argued "the device of claim 1 is not anticipated or made obvious by the teachings of Shishido in view of Igarashi. For example, Shishido in view of Igarashi does not disclose or suggest, a device that amongst other patentable elements, comprises a (illustrative emphasis added) "device for recording data and data structures on a write-once storage medium, the data structures comprising space bit map and defect management structures, the device comprising ... the controlling means are adapted to record the data structures at a predefined temporary location in a reserved area on the write-once storage medium and to finalize the write-once storage medium by recording the data structures at a predefined fixed location as defined for a rewritable storage medium, wherein the predefined fixed location is a different location than the predefined temporary location" as recited in claim 1, and as similarly recited in each of claims 4 and 7.

The Examiner respectfully disagrees with regard to the analysis given above. Further, Shishido discloses a device for recording data and data structures on a write once storage medium as illustrated in Fig. 7. A data structure is shown in Fig. 6 comprising of a program area 12 and the program area containing a user data region 18. The user data region includes plurality of data packets 19, where the packets comprises plurality of data blocks 20 containing 2352-byte of user data [0057]. Claims 4 and 7 are similarly rejected with the same reasons as given above..

The dependent claims are rejected as they depend on a rejected base claim.